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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

20 CR 93 (LTS)  
Remote proceeding

5 MICHAEL ACKERMAN,

6 Defendant.

7 -----x

8 New York, N.Y.  
9 February 15, 2022  
10:30 a.m.

10 Before:

11 HON. LAURA TAYLOR SWAIN,

12 District Judge

13  
14 APPEARANCES (Via videoconference)

15 DAMIAN WILLIAMS

16 United States Attorney for the  
17 Southern District of New York

JESSICA GREENWOOD

17 Assistant United States Attorney

18 FEDERAL DEFENDERS OF NEW YORK

Attorneys for Defendant

19 JONATHAN MARVINNY

M2FTACKS

(Via videoconference, case called)

THE COURT: Thank you, Ms. Ng.

Good morning. My apologies if there are some background noise coming from me. Let me know, please, if it's making it difficult to hear me and I will mute myself if I can. There is just some construction going on locally.

I will now ask counsel to state their appearances, beginning with counsel for the government.

MS. GREENWOOD: Good morning, your Honor, Assistant United States Attorney Jessica Greenwood appearing on behalf of the government.

THE COURT: Good morning, Ms. Greenwood.

And counsel for Mr. Ackerman.

MR. MARVINNY: Good morning, your Honor, Federal Defenders of New York by Jonathan Marvinny for Mr. Ackerman, who is also, of course, present.

THE COURT: Thank you. Good morning, Mr. Marvinny, and good morning, Mr. Ackerman.

THE DEFENDANT: Good morning. How are you?

THE COURT: I'm well. How are you doing?

THE DEFENDANT: Good, thank you.

THE COURT: I'm glad to hear that.

Would you please state your full name so that the court reporter can hear your voice well?

THE DEFENDANT: Sure, Michael Waldron Ackerman.

M2FTACKS

1 THE COURT: Thank you, sir.

2 I also greet any family members, friends, members of  
3 the press or public and colleagues who may be listening in,  
4 since this is a public proceeding. All people who have called  
5 to listen in must keep their phones muted at all times, and I  
6 also ask that counsel keep their phones muted when they're not  
7 speaking. I remind everyone that, as provided in the Court's  
8 standing order, neither recording nor retransmission of any  
9 part of this proceeding is permitted.

10 I will be calling on each speaker during the hearing.  
11 Each time that you speak, please identify yourself by name for  
12 clarity of the record and for the benefit of those who only  
13 have audio access. Please don't interrupt each other or me  
14 during the hearing. If we interrupt each other, it's difficult  
15 to create an accurate transcript. But, as usual, I apologize  
16 in advance for breaking the rule because I may interrupt if I  
17 have questions.

18 I will give the attorneys an opportunity to make  
19 additional comments or ask questions at the end of the hearing,  
20 and if anyone has any difficulty hearing me or another  
21 participant at any time, please unmute and say something right  
22 away.

23 Counsel and Mr. Ackerman, it is important that you  
24 always answer any questions with words rather than simply by  
25 nodding or making gestures, because even though I can see you,

M2FTACKS

1 the people who are listening in can't see you.

2 Do you understand that, Mr. Ackerman?

3 THE DEFENDANT: Yes, I do, your Honor.

4 THE COURT: Thank you. We're in the midst of the  
5 Covid-19 pandemic. I'm conducting this videoconference, a  
6 sentencing hearing, pursuant to the authority provided by  
7 Section 15002 of the CARES Act and the standing orders issued  
8 pursuant to that act.

9 This hearing has been scheduled at the request of the  
10 parties to take place remotely in light of Mr. Ackerman's  
11 health conditions and pursuant to the CARES Act provision that  
12 such a proceeding may go forward remotely upon a finding that  
13 it cannot be further delayed without serious harm to the  
14 interests of justice.

15 Mr. Marvinny, would you please explain the factual  
16 basis for your request that the sentencing hearing go forward  
17 remotely now?

18 MR. MARVINNY: Yes, your Honor. We requested this  
19 proceeding occur remotely in large part because of  
20 Mr. Ackerman's very serious medical condition which makes  
21 travel close to impossible. And, of course, his medical  
22 condition and his ability to travel are impacted by the  
23 Covid-19 pandemic and the presence of Covid-19 in our country.  
24 So for those reasons, we have requested that this proceeding  
25 occur remotely.

M2FTACKS

1 I'm not sure if your Honor wants me to address the  
2 form that we have transmitted to the Court, but I certainly  
3 have discussed with Mr. Ackerman his right to appear physically  
4 in person should he so desire, and he has waived that right,  
5 and we submitted a form indicating that to the Court.

6 THE COURT: Thank you. The form was going to be the  
7 next question, but first I will make this finding: I find for  
8 the reasons stated by Mr. Marvinny that the sentencing hearing  
9 in this case cannot be further delayed without serious harm to  
10 the interests of justice, and that it is necessary to go  
11 forward remotely in light of Mr. Ackerman's health conditions  
12 and the general dangers presented by the Covid-19 pandemic.

13 And now, as to the form, Mr. Marvinny, you have  
14 indicated that you have discussed the waiver of personal  
15 appearance form with Mr. Ackerman. I see, Mr. Marvinny, that  
16 you signed the form on Mr. Ackerman's behalf. Would you  
17 explain the factual basis of your understanding that you were  
18 authorized to do that and that his waiver is knowing and  
19 voluntary?

20 MR. MARVINNY: Yes, certainly, your Honor.

21 Mr. Ackerman and I spoke by telephone. I read the  
22 form out loud to him over the phone. I asked him if he was  
23 willing to give his consent for his appearance to occur  
24 remotely and whether he would authorize me to sign the form on  
25 his behalf. He indicated in the affirmative to both of those

M2FTACKS

1 questions. I signed the form and sent it back to chambers.

2 I should say also Mr. Ackerman executed a similar form  
3 at the time of his guilty plea, so he is familiar with the form  
4 and with his rights.

5 THE COURT: Thank you.

6 Mr. Ackerman, did you hear what Mr. Marvinny just told  
7 me?

8 THE DEFENDANT: Yes, I did, ma'am.

9 THE COURT: Was that all correct?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Thank you. I find that Mr. Ackerman has  
12 knowingly and voluntarily waived his right to appear in person  
13 and agreed to proceed with this sentencing hearing by  
14 videoconference. I will endorse the waiver form to indicate  
15 the Court's acceptance and I will file it on the record.

16 I have received and reviewed the presentence  
17 investigation report, which is dated December 6, 2021,  
18 including the recommendation and addendum, as well as defense  
19 counsel's February 1, 2022 letter submission which was  
20 accompanied by three letters of support from Mr. Ackerman's  
21 family members and a friend, four communications from medical  
22 professionals concerning Mr. Ackerman's health conditions, and  
23 an opinion letter from a physician retained by the defense in  
24 this case.

25 I have also reviewed the government's February 10,

M2FTACKS

1 2022 letter submission, and by order dated February 11, 2022,  
2 the Court permitted the parties to file redacted versions of  
3 their sentencing submissions on the public docket and the  
4 complete unredacted submissions have been filed under seal.

5 There was also a consent order of forfeiture that was  
6 entered in connection with the change of plea proceeding.

7 Are there any other written submissions that the  
8 parties intend me to have considered in connection with the  
9 sentencing, Mr. Marvinny?

10 MR. MARVINNY: Not from the defense, your Honor.

11 THE COURT: Thank you.

12 Ms. Greenwood?

13 MS. GREENWOOD: Yes, your Honor. This morning I spoke  
14 to chambers with respect to the transmission of victim impact  
15 statements to the Court. I had understood that those had been  
16 transmitted previously, but apparently they were not, so I  
17 submitted to the Court this morning a document consisting of  
18 short victim impact statements, and I transmitted that by email  
19 this morning to chambers and was informed by chambers that that  
20 would be communicated to your Honor.

21 THE COURT: Thank you. Those came in just as I was  
22 signing on, and I looked at them briefly, and I did neglect to  
23 mention them. So for the record, I have also received victim  
24 impact statements transmitted under a cover letter of --  
25 actually incorporated into a letter dated February 15, 2022,

M2FTACKS

1 from the government, which the government has requested to file  
2 under seal, as usual with victim impact statements, which are  
3 not filed on the public record. The application to file those  
4 under seal is granted.

5 Mr. Marvinny, have you had an opportunity to review  
6 the victim impact statements?

7 MR. MARVINNY: Yes, your Honor, just briefly, at the  
8 same time I think your Honor did.

9 THE COURT: Thank you.

10 So Ms. Greenwood, you have provided the victim impact  
11 statements to us today. Would you make a more comprehensive  
12 statement regarding the government's victim identification and  
13 notification activities in connection with this sentencing?

14 MS. GREENWOOD: Yes, your Honor. The vast majority of  
15 the victims in this case are represented by legal counsel.  
16 They have been engaged in a number of lawsuits concerning this  
17 matter civilly as well as involving one of the other  
18 participants in the cryptocurrency scheme's bankruptcy. So we  
19 have been primarily communicating through counsel and have been  
20 using them to assist us in identifying additional victims who  
21 are not represented by them in order to ensure that everyone  
22 has notification of the sentencing today.

23 I have been in communication with those attorneys in  
24 order to communicate the availability of the opportunity for  
25 the victim impact statement and the nature of this proceeding



M2FTACKS

1 today. And in addition, we have had a number of unrepresented  
2 victims reach out to us and have been in touch with them about  
3 both this proceeding and the restitution process to follow.

4 THE COURT: And did any of the victims request to be  
5 able to speak today?

6 MS. GREENWOOD: None requested to speak orally at the  
7 sentencing, your Honor. The victim impact statements are the  
8 response that you received inviting them to speak. Although we  
9 did provide to them the public dial in, and so a number of them  
10 may or may not be on the line today.

11 THE COURT: Thank you. I greet any who may be on the  
12 line, and, as I said, I have reviewed, albeit briefly, the  
13 statements that were provided by the government today.

14 Mr. Marvinny, have you read the entire presentence  
15 report and the submissions and discussed them with  
16 Mr. Ackerman?

17 MR. MARVINNY: Yes, your Honor.

18 THE COURT: Mr. Ackerman, have you yourself reviewed  
19 the entire presentence report?

20 THE DEFENDANT: Yes, I have, your Honor.

21 THE COURT: And have you discussed the presentence  
22 report and the submissions with Mr. Marvinny?

23 THE DEFENDANT: Yes, I have.

24 THE COURT: Mr. Marvinny, does the defense have any  
25 objections or other issues with respect to the content of the

M2FTACKS

1 report that you wish to address?

2 MR. MARVINNY: Nothing as to the presentence report,  
3 your Honor.

4 THE COURT: Ms. Greenwood, does the government have  
5 any objections or other issues with respect to the content of  
6 the report that you wish to address?

7 MS. GREENWOOD: No, your Honor.

8 THE COURT: Ms. Greenwood, is the government applying  
9 to have Mr. Ackerman credited with the third point for  
10 acceptance of responsibility?

11 MS. GREENWOOD: Yes, your Honor.

12 THE COURT: That application is granted. And I note  
13 that the third point is taken into account in the computations  
14 in the presentence report.

15 Ms. Greenwood, what is government's position as to  
16 restitution?

17 MS. GREENWOOD: Yes, your Honor, the government would  
18 seek to schedule a restitution hearing 90 days from today, the  
19 date of sentencing, to finalize the restitution amount and  
20 schedule.

21 THE COURT: Is there any objection to that request,  
22 Mr. Marvinny?

23 MR. MARVINNY: No objection.

24 THE COURT: Ms. Ng, would you give us a restitution  
25 hearing date 85 days out, so if we have to sort out any

M2FTACKS

1 paperwork or anything, we're not, on the 90th day, figuring  
2 that out?

3 DEPUTY CLERK: Okay, Judge.

4 We have May 11, 2022 at 11:00 a.m.

5 THE COURT: Mr. Marvinny, is that a date, which is  
6 essentially a holding date, but nonetheless a date that would  
7 be available for you?

8 MR. MARVINNY: Yes, your Honor.

9 THE COURT: Thank you.

10 And Ms. Greenwood, does that date work for you?

11 MS. GREENWOOD: Yes, your Honor.

12 THE COURT: Thank you. The restitution determination  
13 in this case is deferred to a hearing scheduled for May 11,  
14 2022 at 11:00 in the morning.

15 And as to forfeiture, Ms. Greenwood, have we done  
16 everything that is necessary at this stage with the entry of  
17 the consent preliminary order of forfeiture, which is at Docket  
18 Entry No. 57, and which will be referenced in the judgment and  
19 commitment form that I prepare in connection with today's  
20 sentencing?

21 MS. GREENWOOD: Yes, your Honor. I would note one  
22 thing. We did, in preparing for sentencing and moving forward  
23 on forfeiture, determine that the reference to the law  
24 enforcement agency in possession of the seized property in the  
25 consent preliminary order of forfeiture omits reference to the

M2FTACKS

1 FBI -- or sorry, to Homeland Security Investigations, which is  
2 in possession of a significant amount of the property. So my  
3 understanding is we're going to submit a revised order that  
4 just reflects the proper seizing entity for some of the items  
5 reflected in the consent order. But other than that, yes, your  
6 Honor, the consent order is ready to go.

7 THE COURT: And so would it still be appropriate for  
8 me to reference this consent order of forfeiture in the  
9 judgment, understanding that that order itself may be amended  
10 later?

11 MS. GREENWOOD: I think so, your Honor. Given the  
12 nature of the change being what it is, I think that's  
13 appropriate.

14 THE COURT: Very well then. And so before I ask you  
15 to make your general sentencing statements, I want to inform  
16 counsel that I am considering a departure provision in the  
17 sentencing guidelines at Section 5H1.4. And so notwithstanding  
18 the disclaimer of departure arguments in the plea agreement, I  
19 am directing you to address the potential applicability of the  
20 sentencing departure provision found at Section 5H1.4 of the  
21 guidelines, which provides that physical condition or  
22 appearance, including physique, may be relevant in determining  
23 whether a departure is warranted if the condition or  
24 appearance, individually or in combination with other offender  
25 characteristics, is present to an unusual degree and

M2FTACKS

1 distinguishes the case from the typical cases covered by the  
2 guidelines. That guideline provision further states that an  
3 extraordinary physical impairment may be a reason to depart  
4 downward, e.g., in the case of a seriously infirm defendant  
5 home detention may be as efficient as and less costly than  
6 imprisonment. So that is one topic that I would invite you to  
7 address.

8 In addition, if I find that a non-custodial sentence  
9 is appropriate, I'm considering imposing it as a sentence of  
10 probation, which would permit me to impose supervision for up  
11 to five years, rather than the statutory supervised release  
12 limit of three years. And a probation sentence would also  
13 permit me to resentence Mr. Ackerman should he violate his  
14 terms of release and/or whether or not he recovers physically.  
15 So that is something else that I wanted counsel to be aware of  
16 before you begin your sentencing remarks.

17 And so Mr. Marvinny, whenever you are ready, I call on  
18 you first to make your remarks. Thank you.

19 MR. MARVINNY: Thank you, your Honor. I appreciate  
20 the insights from the Court as to what the Court would like us  
21 to address.

22 I have given some thought to the departure provision  
23 at 5H1.4, although obviously haven't briefed it or raised it  
24 affirmatively because, as the Court is aware, we have a plea  
25 agreement. But nonetheless, with the Court's invitation to

M2FTACKS

1 address it, I think it's probably certain that Mr. Ackerman's  
2 condition satisfies the plain language of 5H1.4, that is,  
3 Mr. Ackerman's physical impairment is in fact extraordinary as  
4 the guideline provides, and is present to an unusual degree  
5 that distinguishes his case from typical cases covered by the  
6 guidelines.

7 In a nutshell, Mr. Ackerman's physical condition is  
8 extremely dire, so far outside of the norm, so far out of the  
9 mainstream that I think it qualifies under 5H1.4. I think that  
10 a departure is readily applicable here. Our position is  
11 whether the Court counts the sentence as a departure or as a  
12 variance or some combination of the two, the ultimate result  
13 should be the same, which is that Mr. Ackerman should not be  
14 incarcerated.

15 We said in the first paragraph of our submission, your  
16 Honor, that this case is exceptional, and it truly is. It is  
17 an incredibly serious crime that no one would deny the severity  
18 of. There was an exceptionally high loss amount and it was a  
19 fraud that Mr. Ackerman understands he must pay for.

20 At the same time, Mr. Ackerman's medical condition is,  
21 again, so exceptionally dire that it actually warrants a  
22 non-incarceratory sentence. So we filed the majority of our  
23 submission under seal, but the fact is I'm happy to address  
24 today that Mr. Ackerman suffers from end stage liver and kidney  
25 disease. He has been diagnosed as terminally ill, meaning he

M2FTACKS

1 has less than twelve months to live, and that, frankly, your  
2 Honor, is probably under the best of circumstances.

3 Mr. Ackerman's only chance for survival is transplants of both  
4 organs. He has a very high MELD score, which means that his  
5 condition actually has gotten worse in some sense, but that  
6 he's more hopeful than ever he's finally going to receive a  
7 transplant.

8 We submitted, your Honor, reams of medical records to  
9 the probation office, to the independent expert that we  
10 retained. And I should say to your Honor, to the government as  
11 well, we are not trying to hide the ball in any sense here.  
12 Mr. Ackerman's condition is well documented. It is serious.

13 And remarkably, your Honor, the probation office,  
14 after considering the material, has also recommended a  
15 non-incarceratory sentence. Given the gravity of the offense  
16 here, I think the Court knows how truly extraordinary that  
17 recommendation from probation is, and I think it speaks to the  
18 real serious nature of Mr. Ackerman's care and what it  
19 requires. Probation has said, and I echo it entirely, that  
20 even a short term of imprisonment in a medical center, in a BOP  
21 medical center could potentially be a lethal sentence given  
22 Mr. Ackerman's needs. And I think that's accurate and it's not  
23 an overstatement. And above and beyond that, your Honor,  
24 probation cites the cost, the exorbitant cost and the burden it  
25 would impose on the BOP to care for Mr. Ackerman.

M2FTACKS

1 I want to add one more consideration for that, which  
2 is even if in some nominal sense the Bureau of Prisons would  
3 take the position that it could treat Mr. Ackerman because it  
4 has Level 4 medical facilities, et cetera -- and I know the  
5 Bureau of Prisons often takes a position that it can treat any  
6 defendant -- the fact is whatever treatment BOP might be able  
7 to provide, it will not be close to the care that Mr. Ackerman  
8 receives now, and that is a significant factor. Mr. Ackerman  
9 has teams of doctors, nurses, social workers, hospital  
10 administrators at both the Cleveland clinic and at the  
11 University of Wisconsin, two transplant centers where  
12 Mr. Ackerman is listed for transplants. They provide him  
13 exceptional care, and to take him away from the care of those  
14 doctors would be beyond harmful.

15 Equally important, no less important is the fact that  
16 Mr. Ackerman receives daily care, really 24-hour care from his  
17 wife Stacey, who essentially has left her job and has been  
18 Mr. Ackerman's full-time caretaker for many, many years. I  
19 described in my submission a typical day in Michael and Stacey  
20 Ackerman's life, and it is bleak, to say the least. It  
21 involves an extraordinary amount of care from Stacey, and it's  
22 remarkable what she has done and will continue to do for  
23 Mr. Ackerman. But taking him away from her and his team of  
24 doctors, it's just more than is necessary here.

25 Your Honor, the other factors that the Court is to



M2FTACKS

1 consider, the other sentencing factors -- although typically a  
2 sentence like this might warrant incarceration here -- in  
3 combination with his medical conditions, support a  
4 non-incarceratory sentence. Although there was a high loss  
5 amount, it's still a non-violent first offense for  
6 Mr. Ackerman. It was committed at a time when he was abusing  
7 alcohol and other substances and was in deep, deep depression  
8 and suffering from other mental health conditions. He's been  
9 diagnosed as having bipolar disorder, and that was certainly  
10 kind of at its peak when Mr. Ackerman was committing his  
11 offense.

12 He also, your Honor, is -- and this is not  
13 insignificant -- is exceptionally remorseful and self aware of  
14 what he has done. During his allocution to the Court at the  
15 time of his guilty plea he said his offense was motivated by  
16 greed, and that he is remorseful. And that is a position that  
17 Mr. Ackerman told the probation department as well.

18 So none of these other kind of other considerations of  
19 sentencing, incapacitation, deterrence, none of those are  
20 really better addressed by an incarceratory term here.  
21 Mr. Ackerman is no threat to break the law again, and he's  
22 deeply remorseful for his crimes.

23 Moreover, there are a raft of collateral consequences  
24 that attach to Mr. Ackerman's conviction, including very steep  
25 financial penalties. There are proceedings against

M2FTACKS

1 Mr. Ackerman by the SEC, the CFTC, and by the individual  
2 private victims of the offense. Mr. Ackerman is going to be  
3 banned from trading forever, from working in the financial  
4 field. He has agreed to significant restitution and forfeiture  
5 amounts, both over \$30 million. He agreed to the consent  
6 preliminary order of forfeiture that was discussed by the Court  
7 at the beginning of this proceeding.

8 So at bottom, your Honor, there is simply no way in  
9 this case, even if the Court imposes a non-incarceratory  
10 sentence, to say that Mr. Ackerman would not be punished  
11 severely or has escaped punishment.

12 The fact is that there is no one on the planet that  
13 would choose to be in Mr. Ackerman's situation right now.  
14 Apart from his financial penalties, his medical condition is  
15 such an extraordinary circumstance that Mr. Ackerman under any  
16 analysis will have been punished beyond any appropriate  
17 measure. At this point he's in a fight to survive, it is that  
18 dire, and so imprisoning him would be far more than any  
19 sentencing factor can bear.

20 So under 3553(a), under any departure in the  
21 guidelines, a non-incarceratory sentence is appropriate even  
22 though, again, it's an exceptional sentence, but this is an  
23 exceptional case.

24 And finally, your Honor, we asked in our submission  
25 and asked today for a non-incarceratory sentence, which is a

M2FTACKS

1 broad term, and I think the Court got at why that was at the  
2 beginning. To the extent the Court wishes to impose probation  
3 instead of supervised release, I think that makes a lot of  
4 sense. As your Honor indicated, the Court could place  
5 Mr. Ackerman on supervision for longer than three years, it  
6 could give a term, for example, of five years, and the Court  
7 could have a whole host of sentencing options available to it  
8 should Mr. Ackerman offend or violate in any way. So that  
9 would be a very kind of common sense, appropriate sentence  
10 here.

11 We also talked about the possibility of house arrest.  
12 I think for various physical reasons, electronic monitoring  
13 might be difficult for Mr. Ackerman. I think, frankly, his  
14 body is in such rough shape, affixing or attaching anything to  
15 him may not be helpful. We would prefer home arrest or home  
16 detention in this case. The short of it is any sentence that  
17 spares Mr. Ackerman from prison and the likely death sentence  
18 that that would represent would be appropriate here. So again,  
19 a sentence of five years probation would make a lot of sense,  
20 something along those lines.

21 Your Honor, there is a lot to say here. I said a lot  
22 in my sentencing submission. I think the Court understands the  
23 equities. I'm happy to answer questions, but our position, in  
24 accord with the probation office's position, is that  
25 Mr. Ackerman frankly cannot and should not be imprisoned and

M2FTACKS

1 that anything short of that would be appropriate.

2 THE COURT: Thank you, Mr. Marvinny. And I have no  
3 questions for you at this point. You have been quite  
4 comprehensive.

5 Ms. Greenwood?

6 MS. GREENWOOD: Yes, your Honor.

7 So starting with the point that your Honor raised, I  
8 think the government is certainly not disputing the nature and  
9 severity of Mr. Ackerman's health condition. I think we find  
10 ourselves in the position where we either have a defendant who  
11 can be incarcerated by the Bureau of Prisons, and based on his  
12 offense conduct should be incarcerated for a significant period  
13 of time, or someone who can't be incarcerated by the Bureau of  
14 Prisons and there needs to be some alternate arrangement there.

15 I'm not a doctor, your Honor, and we have done our  
16 best to consult with the people that we can at the Bureau of  
17 Prisons and have presented them with the sentencing submission  
18 we received from Mr. Marvinny with the descriptions of  
19 Mr. Ackerman's health conditions, and have been told that the  
20 medical centers at the Bureau of Prisons can accommodate his  
21 care. And having little else to go on other than that, your  
22 Honor, the government feels that with the Bureau of Prisons  
23 being able to care for Mr. Ackerman that a significant  
24 incarceratory sentence is warranted here.

25 The Court is well aware of the facts in this case,

M2FTACKS

1 which are set out in detail not only in the complaint but in  
2 the plea allocution and in the government's sentencing  
3 submission. This was a calculated, years' long scheme by the  
4 defendant to steal tens of millions of dollars from investors  
5 that relied on his advice and on his technical know-how to  
6 invest what for many of these investors was their life savings.

7 The government has recovered what will essentially be  
8 pennies on the dollar for many of these victims, and the vast  
9 majority of what we have been able to recover came from sources  
10 other than the defendant. And so the defendant, although he is  
11 facing significant penalties in terms of a negotiated  
12 restitution amount and a negotiated forfeiture amount, his  
13 actual penalty to himself is very minimal. He purchased  
14 properties, real estate, directly with victim funds. The  
15 government is seizing those. The government also seized  
16 cryptocurrency accounts that were in his possession. But the  
17 defendant, by and large, had spent the money he stole from the  
18 victims by the time the government was able to arrest him and  
19 attempt to recoup the losses from his scheme.

20 As you can see from the victim impact statements, your  
21 Honor, these are victims who have had their savings wiped out,  
22 who had their trust significantly damaged as a result of this  
23 defendant's conduct. I understand the submission talks about  
24 medical conditions the defendant claims to have suffered at the  
25 time, and quite frankly, your Honor, those conditions did not

M2FTACKS

1 prevent him from personally benefiting to the tune of  
2 approximately \$9 million and facilitating losses closer to \$37  
3 million in total and using that money to buy luxury goods, to  
4 fund travel, to purchase real estate. None of those conditions  
5 prevented him from not only enjoying the proceeds of his fraud  
6 but engaging in a sophisticated fraud that involved consistent  
7 lies and doctoring of materials that he provided to investors.

8 Quite frankly, your Honor, given the representation  
9 that we received from the BOP about its ability to incarcerate  
10 the defendant, the nature and seriousness of his conduct, and  
11 again, quite frankly, the inability of the government to  
12 approach any kind of meaningful recovery for the victims in  
13 this case I think warrants an incarceratory sentence within the  
14 guidelines.

15 THE COURT: Thank you, Ms. Greenwood.

16 Mr. Ackerman, would you like to speak for yourself  
17 before I decide on your sentence?

18 THE DEFENDANT: Yes, your Honor. I have a bunch of  
19 notes written down, and I don't do so well with notes, so I may  
20 miss some of what I was going to tell you, but at this point in  
21 my life, I'm a broken man. I have got no place to live. I  
22 have got no income. Due to the sickness and due to the  
23 situation, I have got no money at this point because everything  
24 has been taken away. I'm living on disability, which is \$2,600  
25 a month, and I really don't have what I will call a bright

M2FTACKS

1 future at this point.

2 And that's two pronged, because I'm fighting two  
3 fights right now. I'm fighting this fight -- this fight will  
4 continue civilly, obviously, afterwards, and I will be involved  
5 in that -- and the second fight is the fight for my life. And  
6 I don't make that statement lightly. This disease that I have  
7 is progressive. It doesn't just stop. It won't get better.  
8 No matter how many vitamins or pills I take a day, it's not  
9 going to get better.

10 The one thing I will say, and I said it from the  
11 get-go, is I'm guilty. I have never disputed that fact. I  
12 have never gone against that fact. I have realized very  
13 directly that crime doesn't pay, as it involves remorse, and I  
14 have such an enormous amount of remorse for my ex partners,  
15 James Seijas and Quan Tran. I have ruined their trust, I have  
16 ruined their ability to go out and raise money for other jobs  
17 or other funds that they are involved in. I caused them a  
18 great deal of trouble. Moreover, I have caused the investors a  
19 great deal of trouble. They looked up to me, they trusted me,  
20 and I broke that trust. And I, again, don't take that lightly  
21 at all.

22 I guess the bottom line is I'm looking for leniency  
23 from you. My future is obviously in your hands now, and  
24 whatever decision it is that you make is the decision that I  
25 will have to live by. But again, I do ask for leniency. And I

M2FTACKS

1 hope this decision is easy for you to make and not a close  
2 contest, and I thank you, your Honor.

3 THE COURT: Thank you.

4 Is there anything further that you would want to say  
5 about your understanding or perception of the impact that your  
6 crime has had on the lives of the people who invested with you?

7 THE DEFENDANT: Enormous. And I said it before. They  
8 had trust in me. They looked up to me. They looked to me as  
9 if I had the answers to their financial future. And by  
10 breaking or breaching that trust, it put them -- to wake up one  
11 morning and be told you have been scammed and you get that pit  
12 in your gut feeling, because you get -- that happened to me  
13 before -- that pit in your stomach, that feeling of oh, my God,  
14 I can't believe what I did. You're embarrassed, you're  
15 horrified, you're angry, you're upset, you don't know which  
16 emotion to follow.

17 I could tell you from the heart that I know that I  
18 impacted them in a huge, huge way. And other than saying  
19 sorry, saying I'm guilty, trying to assist the prosecutor with  
20 gathering all these goods that were purchased, those are --  
21 that's nothing else I can do.

22 I tried my best to come up with an answer that would  
23 make me feel better, and the answer is I'm not going to feel  
24 better. I'm not going to feel better because what I did was  
25 egregious and I deserve not to feel better. I don't deserve a



M2FTACKS

1 break in terms of how I feel emotionally, because the investors  
2 aren't going to have that feeling disappear anytime soon, and I  
3 understand that.

4 THE COURT: Thank you, Mr. Ackerman.

5 I am going to ask now that everyone just sit quietly  
6 with me for a couple of minutes while I reflect on everything  
7 that I have heard and make my decision as to the sentence,  
8 which I will then explain and announce.

9 Mr. Marvinny, it looked for a moment as if you wanted  
10 to say something more, is that the case?

11 MR. MARVINNY: Not at this time, your Honor, thank  
12 you.

13 THE COURT: Thank you. So everyone just sit quietly  
14 with me for a couple of minutes here.

15 (Pause)

16 THE COURT: Thank you for your patience. I listened  
17 to everything that has been said this morning. I read all the  
18 submissions and I adopt the factual recitations set forth in  
19 the presentence report.

20 This Court has discretion, taking into account the  
21 applicable statutory provisions in exercising its power under  
22 Section 3553(a) of Title 18, to determine the particular  
23 sentence to be imposed in each particular case.

24 The law requires the Court to consider a number of  
25 specific factors and sentencing goals, including the nature and

M2FTACKS

1 circumstances of the offense, the defendant's history and  
2 characteristics, the need for the sentence imposed to reflect  
3 the seriousness of the offense, promote respect for the law,  
4 and provide just punishment, deterrence, and protection of the  
5 public, as well as the need for the sentence to provide for the  
6 provision of medical care or other correctional treatment to  
7 the defendant in the most effective manner.

8 The Court considers the types of sentences that are  
9 available, the provisions of the sentencing guidelines, the  
10 need to avoid unwarranted disparities, and the need to provide  
11 restitution to victims. The law requires the Court to impose a  
12 sentence that is sufficient but not greater than necessary to  
13 comply with the statutory sentencing purposes.

14 As to the sentencing guidelines, I conclude that the  
15 applicable guideline offense level is 28, based on the  
16 calculation set forth in the report, and that the applicable  
17 Criminal History Category is I for the reasons set forth in the  
18 report. Accordingly, the advisory guideline range for a  
19 custodial sentence is from 78 to 97 months of imprisonment, and  
20 I have used the 2021 edition of the guidelines manual when  
21 making these determinations.

22 I have considered the question of whether there is an  
23 appropriate basis for a departure from the advisory range  
24 within the guidelines system, and specifically I have focused  
25 on Section 5H1.4 of the guidelines, finding that Mr. Ackerman's

M2FTACKS

1 grave medical condition and treatment needs -- as will be  
2 detailed in my remarks and as have been detailed in the  
3 submissions and on the record today -- establish extraordinary  
4 circumstances, making him so seriously infirm that a  
5 non-custodial sentence, including home incarceration, will be  
6 as effective as and more efficient than a custodial sentence in  
7 addressing the statutory purposes of sentencing.

8 I have also considered carefully all --

9 Ms. Greenwood, are you having trouble hearing? It  
10 seems to me --

11 MS. GREENWOOD: You cut out for a moment, your Honor,  
12 but you're back.

13 THE COURT: Okay. Did you miss a lot of what I said  
14 or --

15 MS. GREENWOOD: I did not. Sorry, I was flagging in  
16 case it continued, but it's fine, thank you.

17 THE COURT: All right. Thank you for flagging.

18 (Interruption by court reporter)

19 THE COURT: And so I went on to say I have also  
20 considered all of the Section 3553(a) factors, which in  
21 combination and weighed properly, indicate the necessity of a  
22 variance downward from the advisory guidelines sentence, and  
23 that is necessary to accomplish a sentence that is reasonable  
24 within the meaning of the law, sufficient and no greater than  
25 necessary to address the statutory purposes of sentencing.

M2FTACKS

1           That last remark was in addition to remarks I had made  
2 while the sound apparently had cut out. I will now address  
3 directly some of the Section 3553(a) factors.

4           As to the nature and circumstances of the offense,  
5 Mr. Ackerman's offense was vast in its financial impact and its  
6 impact on the trust of the investors and the public. It was  
7 very serious indeed. He served as chief trading officer and  
8 one of three managers of a cryptocurrency investment club from  
9 August of 2017 to December 2019. His responsibilities included  
10 personally controlling the primary trading account of the  
11 enterprise and an online cryptocurrency account. More than a  
12 hundred member investors accumulated more than \$30 million in  
13 what they believed were investments that they believed were  
14 being invested by this organization.

15           Mr. Ackerman lied about the investment of the money  
16 and lied about returns on the money. He lied to his partners.  
17 He lied to the investors. The lies to his partners were also  
18 communicated to the investors, and people relied on these lies  
19 in making further investments with him, some of them with their  
20 life's savings with large portions of their accumulated wealth.  
21 And as I said, it was to the tune of about \$30 million from a  
22 hundred people, so clearly very large investments by at least  
23 some of those people. And in the meantime, Mr. Ackerman, while  
24 he was lying about investment returns, was withdrawing funds  
25 from the account for his own benefit.

M2FTACKS

1           Mr. Ackerman stole a total of at least \$9 million in  
2 investor contributions and used those amounts to fund his  
3 purchases of real estate, jewelry, vehicles, travel, and  
4 personal security services. As a result of his involvement in  
5 this offense, he has been determined to be responsible for  
6 guidelines computation purposes for a loss exceeding \$25  
7 million and up to \$65 million as a bracket, affecting ten or  
8 more victims. Those are specific factors that go into the  
9 sentencing guideline calculation.

10           Mr. Ackerman attributes his conduct to greed and to  
11 impaired judgment stemming from substance abuse and mental  
12 health problems. He recognizes the impact of his breach of  
13 trust on the investors.

14           As to his personal history and characteristics, we  
15 have received information from his older brother about his  
16 early life. Mr. Ackerman is an educated man who was employed  
17 for more than two decades in New York as a stock broker. And  
18 he became quite wealthy. A longtime friend says Mr. Ackerman  
19 was generous in fundraising for worthy causes and in mentorship  
20 for new employees during that period, and specifically helped  
21 the friend, who wrote about a low point in his life.

22           Mr. Ackerman began drinking in college and at some  
23 point began to abuse alcohol. This was a substance abuse  
24 problem that led to the demise of his first marriage. And  
25 during this period of time, Mr. Ackerman's career opportunities

M2FTACKS

1 went far south, and he went from being a very successful  
2 stockbroker to being a person whose skills had been superseded  
3 by changes in the methods by which investments are traded and  
4 technology.

5 He began engaging in this criminal conduct no later  
6 than 2017 and also began using drugs in addition to alcohol.  
7 The substance abuse problems led to either the onset of  
8 physical disease or serious acceleration and deterioration of  
9 liver and kidney disease. His multi-medical ailments have left  
10 him unable to care for himself and unable to stand unassisted,  
11 and he now requires assistance with most tasks of daily living  
12 and is awaiting liver and kidney transplants that are necessary  
13 to give him more than a minimal prospect of continued life. He  
14 has been diagnosed as terminal.

15 His current wife, who has also been a longtime friend,  
16 serves as his primary and full-time caretaker. And because of  
17 the multiple complex serious physical and mental health  
18 problems from which he suffers, Mr. Ackerman is largely  
19 confined to a wheelchair and requires 24-hour-a-day assistance.  
20 Mrs. Ackerman has also written to the Court reiterating  
21 Mr. Ackerman's expressions of remorse and stating that he is  
22 tormented and remorseful for his criminal conduct, especially  
23 because he hurt people who had been his friends.

24 Mr. Ackerman's treating professionals and expert  
25 consultant detail his condition, the risks that he faces, even

M2FTACKS

1 if he is successful in obtaining transplants, and the  
2 meticulous and complex post-transplant care that will be  
3 necessary if he receives transplants.

4 This makes it clear that an extraordinary level of  
5 personal care and attention to medical issues will be required.  
6 Notwithstanding the BOP's general representations, conveyed  
7 through the government's counsel, that the Bureau of Prisons  
8 would be able to care for Mr. Ackerman, it is difficult if not  
9 impossible to imagine that any Bureau of Prisons facility would  
10 be able to support the necessary longterm post-operative  
11 regimens or even be able to respond quickly to an opportunity  
12 to take Mr. Ackerman to a location on short notice for  
13 transplant surgery.

14 His preoperative condition is already one that  
15 requires constant personal assistance and multiple complicated  
16 invasive treatments each week. He's been hospitalized on  
17 approximately 20 occasions over the past two years, and the  
18 submissions indicate that Mr. Ackerman's condition is terminal  
19 without surgery and that his attending professionals have  
20 concluded that his anticipated life expectancy is 12 months or  
21 less.

22 He is also facing numerous civil and enforcement  
23 proceedings as a result of his crimes.

24 The Court has considered the need for the sentence  
25 imposed to promote respect for the law, provide just

M2FTACKS

1 punishment, afford adequate specific and general deterrence,  
2 and to protect the public from further crimes by Mr. Ackerman.

3 The Court finds that the defense evidence as to  
4 Mr. Ackerman's current condition establishes that his physical  
5 condition likely makes him incapable of committing further  
6 crimes, and that by achieving sobriety, he has separated  
7 himself from a key factor in his criminal activity, making  
8 specific deterrence a minor factor in the sentencing decision.

9 He suffers due to his medical condition, which is not  
10 a result of his crimes but is a result of the conduct in which  
11 he engaged in the years before and during his crime, and he has  
12 agreed to forfeit the ill-gotten gains of his criminal business  
13 and make tens of millions of dollars of restitution. Although  
14 it is unclear whether this will result in any significant  
15 recoveries for victims, it is clear that he is a gravely ill  
16 man who is and will be without financial resources to draw on  
17 even for shelter.

18 These conditions are significantly punitive as a  
19 practical matter. The law also requires the Court to consider  
20 the need to provide the defendant with medical care in the most  
21 effective manner, and that is a need that is particularly acute  
22 in this case given Mr. Ackerman's current and anticipated  
23 short-term medical needs. As the medical expert retained by  
24 the defense attests, provision for those significant needs in  
25 any custodial setting would quite likely compromise



M2FTACKS

1 Mr. Ackerman's health. It would, moreover, impose a strain on  
2 the staff of any facility to which Mr. Ackerman might be  
3 designated. The Bureau of Prisons' facilities are already  
4 challenged by the pandemic and security issues as well.

5 The Court has deferred a final determination of the  
6 victims' losses and appropriate restitution to the May 11,  
7 2022, sentencing restitution hearing.

8 The Court has considered the need to avoid unwarranted  
9 disparities and concludes that the particulars of this case  
10 will not result in any unwarranted disparities.

11 Summing up, the Court concludes that, although  
12 Mr. Ackerman's financial fraud was shockingly brazen and  
13 deprived his victims of huge amounts of money, breaching their  
14 trust and disrupting in a devastating fashion their lives, and  
15 it cannot be excused or justified, his current perilous medical  
16 situation makes a custodial sentence of any length greater than  
17 necessary to address the statutory purposes of sentencing and  
18 provides ground for a departure pursuant to Section 5H1.4 of  
19 the sentencing guidelines.

20 Mr. Ackerman is unlikely to survive for very long, and  
21 his ability to survive depends on regular invasive medical  
22 procedures each week, unscrupulous maintenance for the  
23 procedures and cleanliness of Mr. Ackerman's person and  
24 surroundings. He is not capable of performing key activities  
25 of daily living on his own. He needs transplants, which

M2FTACKS

1 require the ability to respond quickly to availability and  
2 travel to undergo complex and dangerous proceedings on short  
3 notice and complicated aftercare requiring constant and  
4 intimate care.

5 The Court is persuaded there is a good chance that a  
6 custodial sentence will likely compromise Mr. Ackerman's health  
7 seriously and unreasonably and he likely would not survive a  
8 custodial sentence in the advisory guideline range. The  
9 guidelines do not contemplate such results of sentencing for  
10 this crime.

11 I also have considered Mr. Ackerman's lack of criminal  
12 history and sincere remorse, and most importantly, his current  
13 health circumstances and the need to provide him with medical  
14 care in the most effective manner. Therefore, both a downward  
15 departure and a variance downward to a non-custodial sentence  
16 are appropriate and necessary. The non-custodial sentence that  
17 I have in mind to impose in the context of his health  
18 conditions will be more cost-efficient to the prison system  
19 than a custodial sentence, and will be efficient as a means to  
20 ensure just punishment, protection of the public, and respect  
21 for the law.

22 The Court entered a consent order of forfeiture and  
23 will incorporate that into the judgment.

24 I note that pursuant to Section 3561 of Title 18 of  
25 the United States Code, the Court is authorized to impose a

M2FTACKS

1 term of probation for a felony of not less than one or more  
2 than five years.

3 I will now state the sentence that I intend to impose.

4 Mr. Ackerman, it is the judgment of this Court that  
5 you are to be sentenced to a five-year term of probation on  
6 your single count of conviction. The imposition of a term of  
7 probation gives the Court the ability to impose a lengthier  
8 supervisory period than would be available with a time-served  
9 sentence followed by supervised release and provides an  
10 opportunity to resentence Mr. Ackerman should he recover and  
11 violate his conditions of probation.

12 The standard conditions of probation 1 through 11 and  
13 13 as set forth in the sentencing guidelines manual will apply.  
14 The probation department will explain these to you in detail.  
15 They are written out specifically in the presentence report,  
16 and I'm sure that Mr. Marvinny will have something to say to  
17 you about them as well.

18 In addition, Mr. Ackerman, you will be subject to the  
19 following mandatory conditions: You must not commit another  
20 federal, state or local crime. You must not illegally possess  
21 a controlled substance. You must refrain from any unlawful use  
22 of a controlled substance and submit to one drug testing within  
23 15 days of placement on probation and at least two unscheduled  
24 drug tests thereafter as directed by the probation office. You  
25 must cooperate in the collection of DNA as directed by the

M2FTACKS

1 authorities.

2 And you must also meet the following special  
3 conditions: You will be subject to home incarceration,  
4 monitored by location monitoring technology at the discretion  
5 of the probation officer for a period of twelve months, and you  
6 must abide by all technology requirements. Now I have left  
7 this to the discretion of the probation officer in light of the  
8 practical issues that your medical condition presents, and so  
9 it will be decided in context whether there is an appropriate  
10 monitoring technology that can be used, but in any event, you  
11 are subject to home incarceration. You must pay all or part of  
12 the costs of participation in a location monitoring program as  
13 directed by the probation officer in light of your financial  
14 circumstances.

15 During the period of home incarceration, which is  
16 twelve months, you are restricted to your residence at all  
17 times except for medical, substance abuse disorder or mental  
18 health treatment, attorney visits, Court appearances,  
19 Court-ordered obligations or other similar activities  
20 preapproved by your probation officer. The home incarceration  
21 will commence at a time specified by the probation officer.

22 You must also participate in an outpatient mental  
23 health treatment program approved by the United States  
24 probation office.

25 You must continue to take any prescribed medications

M2FTACKS

1 unless otherwise instructed by the health care provider, and  
2 you must contribute to the costs of the services rendered based  
3 on your ability to pay and the availability of third-party  
4 payment. The Court authorizes the release of available  
5 psychological and psychiatric evaluations and reports,  
6 including the presentence investigation report, to the health  
7 care provider.

8           You must submit your person and any property,  
9 residence, vehicle, papers, computer, other electronic  
10 communication, data storage devices, cloud storage or media and  
11 effects to a search by any United States probation officer and,  
12 if needed, with the assistance of law enforcement. The search  
13 is to be conducted when there is reasonable suspicion  
14 concerning violation of supervision or unlawful conduct by you,  
15 the person being supervised. Failing to submit to a search may  
16 be grounds for revocation of probation. You must warn any  
17 other occupants that the premises may be subject to searches  
18 pursuant to this condition, and any search must be conducted at  
19 a reasonable time and in a reasonable manner.

20           You must not incur new credit charges or open  
21 additional lines of credit without the approval of the  
22 probation officer unless you are in compliance with the  
23 installment payment schedule. The probation officer will have  
24 access to any requested financial information, and you will be  
25 supervised by your district of residence.

M2FTACKS

1 I have scheduled a separate restitution hearing  
2 pursuant to Section 3664(d)(5) of Title 18, at which time your  
3 precise restitution obligations and the identity and  
4 obligations to each victim will be determined. But since we  
5 are all here, I want to pronounce the repayment obligation on  
6 the record, and I have sufficient information to do so.

7 I have considered Mr. Ackerman's financial  
8 circumstances and the magnitude of his forfeiture and likely  
9 restitution obligations. I will order that the restitution be  
10 paid in monthly installments of 20 percent of Mr. Ackerman's  
11 gross earned income, so public benefits and gifts or loans from  
12 family members and friends will not be subject to this  
13 obligation. It will be an obligation based on earnings, and so  
14 it will be 20 percent of the gross earned income during the  
15 period of probation and payable thereafter in accordance with  
16 the provisions of restitution order that will be entered in  
17 connection with the determination.

18 The requirement of interest payment on any imposed  
19 restitution obligation is waived pursuant to Section  
20 3612(f)(3)(A) of Title 18 in light of Mr. Ackerman's financial  
21 situation and obligations. And in light of Mr. Ackerman's  
22 financial circumstances, and particularly the substantial  
23 forfeiture owed and likely substantial restitution owed, I will  
24 not impose a fine on Mr. Ackerman.

25 Mr. Ackerman, I will order that you pay to the United

M2FTACKS

1 States a special assessment of \$100, which is payable  
2 immediately.

3 You must inform the probation office of any change in  
4 your financial circumstances and notify the United States  
5 Attorney for this district within 30 days of any change of  
6 mailing or residence address that occurs while any part of the  
7 restitution obligations or special assessment remains unpaid.

8 I believe that this sentence is reasonable,  
9 sufficient, appropriate and no greater than necessary to  
10 satisfy the statutory purposes of sentencing, which include  
11 punishment and deterrence.

12 Mr. Marvinny, do you know of any legal reason why the  
13 sentence should not be imposed as stated?

14 MR. MARVINNY: No. I thank you, your Honor. I do  
15 have a request when you're ready to hear it, but there's no  
16 reason that the sentence can't be imposed.

17 THE COURT: Then I will ask Ms. Greenwood.

18 Ms. Greenwood, do you know of any legal reason why the  
19 sentence should not be imposed as stated?

20 MS. GREENWOOD: No, your Honor.

21 THE COURT: The sentence as stated is imposed.

22 Mr. Marvinny, actually let me talk about appeal rights  
23 before you make your request.

24 Mr. Ackerman, to the extent you have not given up your  
25 right to appeal through your guilty plea, you have the right to

M2FTACKS

1 appeal this sentence. If you are unable to pay the cost of an  
2 appeal, you may apply for leave to appeal in forma pauperis.  
3 At your request, the Clerk of Court will file a notice of  
4 appeal for you. Any notice of appeal must be filed within 14  
5 days of the judgment of conviction, so be certain to speak with  
6 Mr. Marvinny about your rights in this regard at the earliest  
7 opportunity.

8 Mr. Marvinny?

9 MR. MARVINNY: Thank you, your Honor. I wanted to  
10 ask, I believe Mr. Ackerman's probation conditions will include  
11 travel restrictions to the district where he's residing, unless  
12 I'm mistaken about that.

13 THE COURT: That is normal.

14 MR. MARVINNY: Yes, I think that's one of the standard  
15 conditions. So in light of that, your Honor, I would ask the  
16 Court to include a condition that is identical to a condition  
17 that the Court agreed to for Mr. Ackerman's pretrial release  
18 pursuant to a bail modification request in September of 2020,  
19 and the condition is that Mr. Ackerman is permitted to travel  
20 to Madison, Wisconsin upon notification that he is to receive  
21 an organ transplant without application to the probation office  
22 or the Court.

23 That is just in case Mr. Ackerman is notified last  
24 minute that an organ is available in Wisconsin, I think he  
25 should be able to travel there without permission from the



M2FTACKS

1 Court, given that it will be a very time-sensitive situation.  
2 And as the Court is aware, this situation in fact occurred in  
3 July of 2021. So we ask for that condition, please.

4 THE COURT: Ms. Greenwood, any objection?

5 MS. GREENWOOD: No, your Honor.

6 THE COURT: All right. I will grant that as a  
7 modification to the -- I will make it a special condition so  
8 that it is flagged out. And I'm just writing it down now since  
9 I don't have the earlier iteration of it right in front of me,  
10 so give me just a moment.

11 Mr. Ackerman is permitted to travel to Madison,  
12 Wisconsin upon notification that he is entitled to receive an  
13 organ transplant without prior notice to the probation office.

14 Does that cover it?

15 MR. MARVINNY: I think also without application to the  
16 Court, because I believe the Court ultimately would be --

17 THE COURT: So without application to the Court or  
18 prior notice to the probation office.

19 MR. MARVINNY: Yes, thank you, your Honor.

20 THE COURT: I will include that.

21 Ms. Greenwood, are there any remaining counts or  
22 underlying indictments that need to be addressed?

23 MS. GREENWOOD: Yes, your Honor, the government moves  
24 to dismiss the open counts against Mr. Ackerman.

25 THE COURT: That application is granted. And I would

M2FTACKS

1 just like to say a few more words.

2 Mr. Ackerman, if it were not for your serious health  
3 conditions, it is very likely that your sentence today would  
4 have included a very substantial term of imprisonment to  
5 reflect the seriousness of your crime, which has done great  
6 harm in the lives of others.

7 I urge you to think hard every day the rest of your  
8 life about the potential consequences of your actions before  
9 you take them so that the actions that you take will be  
10 respectable, positive ones for yourself, for those who depend  
11 on you, those who trust you, those who love you and for your  
12 community, and will be ones consistent with the best care that  
13 you can take of your health under the circumstances.

14 I recognize that you are gravely ill, and the sentence  
15 that I imposed permits you to take maximum advantage of the  
16 medical and transplant resources that are currently available  
17 to you, and also permits you and your wife, who is your  
18 dedicated caregiver, to remain together as you battle your  
19 illnesses and cope with your many day-to-day needs.

20 You have expressed remorse, and through your attention  
21 to achieving sobriety you have taken steps to remove yourself  
22 from the circumstances in which you committed the appalling  
23 fraud that has brought you before the Court today.

24 The letters that I have received tell me that you have  
25 been a good influence in the lives of others, and I urge you to

M2FTACKS

1 do all that you can to be a positive contributor to the lives  
2 of others for as long as you live. You are loved and  
3 appreciated, but those who are close to you, be a person of  
4 whom your family and those who love you can always be proud,  
5 and be an encouragement and good example to them as you  
6 continue your efforts to preserve and improve your health and  
7 live a law-abiding family life. Do everything that is required  
8 of you to provide recompense to your victims, and I wish you  
9 improved health and I wish you and your family continued  
10 strength.

11 The probation office has resources that can be helpful  
12 to you, and the people who work in federal probation, my  
13 colleagues in that function, are truly committed to helping you  
14 succeed. I must caution you that you have to comply strictly  
15 with all of the conditions that I have set for your  
16 probationary term. If you violate any of those conditions, I  
17 may resentence you to a period of imprisonment, so please don't  
18 ever put me in a position of having to make that choice.

19 Thank you for listening, and I wish you strength and  
20 courage and success in your efforts to treat your disease.

21 THE DEFENDANT: Thank you, your Honor, I appreciate  
22 your support.

23 THE COURT: Thank you.

24 I thank counsel for their work, and I will direct that  
25 a copy of the presentence report be prepared for the sentencing

M2FTACKS

1 commission. All other copies of the report must remain  
2 confidential, and if an appeal is taken, counsel on appeal are  
3 to be permitted access to the report.

4 Mr. Marvinny, would you assist Mr. Ackerman in  
5 reaching out to the probation department to make the  
6 arrangements for the probationary supervision?

7 MR. MARVINNY: Yes, your Honor, I will.

8 THE COURT: Thank you. Is there anything else that we  
9 need to address together today, Mr. Marvinny?

10 MR. MARVINNY: Nothing from us. I thank the Court  
11 very much.

12 THE COURT: Is there anything further that we need to  
13 address today together, Ms. Greenwood?

14 MS. GREENWOOD: No, your Honor, thank you.

15 THE COURT: Thank you all. Thank you, Mr. Ackerman.  
16 Keep safe and well, everyone. We are adjourned.

17 (Adjourned)  
18  
19  
20  
21  
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